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10/796,601	03/09/2004	Frank A. Ferraro	129-3-CON	1782

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EXAMINER

COLLADO, CYNTHIA FRANCISCA

ART UNIT PAPER NUMBER

3618

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/796,601

Applicant(s)

FERRARO ET AL.

Examiner

Cynthia F. Collado

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36,38-77 and 79-83 is/are pending in the application.
- 4a) Of the above claim(s) 22-30,49-51 and 70-74 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21,31-36,38-48,52-69,75-77 and 79-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/29/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

1. Applicant's election of species I, figures 1-12,16,20-27 and 32-34 in the reply filed on August 25<sup>th</sup>, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election **without** traverse (MPEP § 818.03(a)).

Claims 22-30,51, and 70-74 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 25<sup>th</sup>, 2005.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2,7,13-17,19,21,32-34,52-53,57,65-67,69,75, and 83 are rejected under 35 U.S.C. 102(e) as being anticipated by Saravis'955 (US Patent No.6, 557,955).

Saravis discloses a moving cart assembly comprising all the elements recited in the above listed claims including, such as shown in figure 5A, a plurality of interlocking

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vertically stackable storage modules forming a moving cart, each module comprising a frame, a drawer and door for enclosing the interior of the module, wheels 530 to facilitate movement of the cart assembly, vertically aligned support ribs, such as shown in figure 2A, located on at least one external and internal vertical surface of the frame, a plurality of receptacles 324 and protrusions 323, such as shown in figure 3B, means 323 and 324 for securing a plurality of the modules together, four reinforced corners (see column 3, lines 31-38) also view figure 1D, element 30), a means for enclosing the interior of each module (see figure 5A, element 511).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 3-6,8-10,18,20,31,38-48,54-60,68 and 79-82 rejected under 35 U.S.C. 103(a) as being unpatentable over Saravis.

Saravis discloses all the elements as discussed above except for the enclosing means having a pair of doors, instead of just one as disclosed, the doors are supported by hinges located either inside or outside the enclosure, the door having an identification slot, the drawer having rails spaced to support at least two different sizes of hanging files, the support ribs are vertically tapered, the frames are vertically tapered, the drawer modules having an inside height of at least 11 inches, cabinet modules each having an inside height of at least 20 inches, the assembly comprises high density polyethylene structural foam, or polypropylene structural foam, or a structural foam plastic.

In regard to the enclosing means having a pair of doors, it would of been obvious and well within the level of one skill in the art to replace the single door of saravis with a double door so that the doors occupy less space in front of the cabinet when open. In regard to the doors being supported by hinges located either inside or outside of the enclosure, it would have been obvious to modify the hinge structure of Saravis such that the doors being supported by hinges located either inside or outside of the enclosure depending on the user's desire, since both type of hinges would perform equally as well. In regard to the door having an identification slot, it would have been obvious and well within the level of one skill in the art to provide the door with an identification slot such that the content stored therein can be easily identified. In regard to the drawer having rails spaced to support at least two different sizes of hanging files, it would have been

obvious to provide the drawer of Saravis with rails spaced in order to support files therein. In regard to the support ribs are vertically tapered and the frames are vertically tapered, it would have been an obvious matter of design choice to provide the support ribs and the frames being vertically tapered, since applicant has not disclosed the criticality of having the ribs and frames being tapered, and it appears that the ribs and frames of Saravis would perform equally well. In regard to the drawer modules having an inside height of at least 11 inches, cabinet modules each having an inside height of at least 20 inches, the assembly comprises high density polyethylene structural foam, or structural foam plastic, it would have been an obvious matter of design choice and well within the level of one skill in the art to provide the drawer, and the cabinet an any specific dimension for its intended purpose, and the assembly at any one of the above listed material, since the listed material are well known for its intended usage and are commercially available products.

7. Claims 11-12,15-16,36,62-66 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saravis in view of Rabinovitz'953 (US Patent No.5, 992,953).

Rabinovitz discloses all the elements recited in the above listed claims including a plurality of interlocking vertically stackable storage modules, each having a frame, means for enclosing the interior of each module, a plurality of connectable carts and means for selectively connecting the carts, wherein the connecting means comprises a retractable hitch (see figure 1, element 160), on each cart, a base having a means for connecting a cart to another cart, such as shown in figure 18, with the means being a plurality of retractable hitches. The differences being that Robinovitz does not disclose

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wheels, vertically tapered support ribs on the inside and outside surfaces of the sides, tapered frames.

Saravis discloses a cart assembly having wheels provided to the base in order to facilitate movement of the cart assembly, vertically extending support ribs on the inside and outside surfaces of the sides in order to increase the overall strength of the frames. Therefore, it would have been obvious to modify the structure of Rabinovitz by providing wheels to the base in order to facilitate movement of the cart assembly, and vertically extending support ribs on the inside and outside surfaces of the sides in order to increase the overall strength of the frames as taught by saravis, since both teach alternate conventional storage assembly structure, thereby providing structure as claimed. In regard to vertically tapered support ribs on the inside and outside surfaces of the sides, and tapered frames, it would have been an obvious matter of design choice to provide the support ribs and the frames being vertically tapered, since applicant has not disclosed the criticality of having the ribs and frames being tapered, and it appears that the ribs and frames of Rabinovitz, as modified, would perform equally as well.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 4,592,601 issued to Hlinsky et al teaches an expandable modular storage system.

US Patent No.5, 921,646 issued to Hwang teaches a combination of easily assemblable and movable cabinet with its engagement component.

US Patent No.5, 921,047 issued to Walker teaches a building structure having prefabricated interfitting structural parts.


US Patent no.5, 888,114 issued to Slocum et al teaches a modular storage system, components, accessories and applications to structural systems and toy construction sets and the like.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CFC 1/18/06

  
J. ALLEN SHRIVER  
PRIMARY EXAMINER